

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

**JULIE A. TORRES, Individually and
on Behalf of Others Similarly Situated,**

Plaintiffs,

v.

**ALAMO HEALTHCARE SYSTEMS,
OF TEXAS, L.P., ROBERT LOWRY,
M.D., and THIMIOS D. PARTALAS,
Individually and in their Official
Capacity,**

Defendants.

**CIVIL ACTION NO.
SA11CA0165FB**

**DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION TO RECONSIDER ORDER
OF DISMISSAL WITHOUT PREJUDICE**

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

COMES NOW, ALAMO HELATHCARE SYSTEMS OF TEXAS, L.P., ROBERT LOWRY, M.D., and THIMIOS D. PARTALAS, Defendants herein, and files this their Response to Plaintiff's Motion to Reconsider Order of Dismissal Without Prejudice, and alleges as follows:

1. Defendants agree that this Court issued its Order of Dismissal on August 15, 2011, after an apparent failure of the parties to timely submit an Agreed Scheduling Order on or before August 12, 2011.
2. Defendants agree that Plaintiff submitted a Proposed Scheduling Order on or about August 3, 2011, to counsel for Defendants.

3. Defendants counsel agreed to the Proposed Scheduling Order on August 12, 2011, and signed and faxed the Order back to Plaintiff's counsel.
4. Defendants counsel received a telephone call from someone in Plaintiff's counsel's office on August 16, 2011, who asked that the Order be faxed again to their office, which was done.
5. Contrary to Plaintiff's counsel's Certificate of Conference, Defendants' counsel has never spoken to Mr. Levy, and certainly did not agree that Plaintiff's motion would be unopposed.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Defendants ask that Plaintiff's motion be denied.

Respectfully submitted,

/s/ Donald E. Wilson

DONALD E. WILSON

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HEALTHCARE SYSTEMS OF TEXAS, L.P., ROBERT
LOWRY, M.D., AND THIMIOS D. PARTALAS

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION TO RECONSIDER ORDER OF DISMISSAL WITHOUT PREJUDICE, VIA facsimile and email on the ___ day of August, 2011, to the following:

Glenn D. Levy
Attorney at Law
906 West Basse Road, Suite 100
San Antonio, Texas 78212
Attorney for Plaintiff, Julie A. Torres

/s/ Donald E. Wilson

Donald E. Wilson
Attorney for Defendants